



PUBLIC NOTICE

Federal Communications Commission
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DA 15-209

February 12, 2015

**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION
FILED BY CITIZENS BANK CONCERNING PRIOR EXPRESS CONSENT UNDER THE
TELEPHONE CONSUMER PROTECTION ACT**

CG Docket No. 02-278

Comment Date: March 16, 2015

Reply Comment Date: March 31, 2015

On January 16, 2015, Citizens Bank, N.A. (Citizens) filed a petition seeking clarification and/or a declaratory ruling regarding the scope of prior express consent under the Telephone Consumer Protection Act (TCPA).¹ Specifically, the Petition asks the Commission to clarify that where a called party purposefully chooses to advertise his or her cellular phone number, the called party has provided prior express consent to receive autodialed or prerecorded non-telemarketing informational calls to the number in question.²

According to Citizens, its requested clarification would be consistent with the TCPA's founding principles and the Commission's implementation of the statute.³ Specifically, Citizens argues that communications related to debt collection are already heavily regulated under numerous federal, state and local laws, and its requested clarification therefore will not result in a large number of debt collection calls.⁴ In addition, Citizens claims that making debt collection calls through autodialing technology facilitates efficient and responsible communications by making it easier to: 1) verify that the right number has been dialed, 2) track the frequency and timing of the calls made, and 3) ensure that the information

¹ The TCPA is codified at 47 U.S.C. § 227. The Commission's implementing rules are codified at 47 C.F.R. § 64.1200. In relevant part, the TCPA prohibits any person within the United States from making "any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or artificial or prerecorded voice . . . to any telephone number assigned to a paging service, cellular telephone service . . . or any service for which the called party is charged for the call." 47 U.S.C. § 227(b)(1).

² See *Petition of Citizens Bank, N.A.*, CG Docket No. 02-278 (filed January 16, 2015) (Petition) at 2. According to its petition, Citizens "provides lending services in select markets nationwide."

³ *Id.* at 16.

⁴ *Id.* at 10-13.

being relayed to the debtor is permissible and consistent with the federal, state, and local laws applying to such communications.⁵ Finally, Citizens contends that the framework it proposes for the treatment of calls to cellular phone numbers that are advertised or otherwise made available for public distribution has already been applied by the Commission to facsimile communications.⁶

We seek comment from interested parties on the issues raised in this Petition. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or

⁵ *Id.* at 11.

⁶ *Id.* at 14-15.

⁷ 47 C.F.R. §§ 1.1200 *et seq.*

other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Josh Zeldis, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (202) 418-0715; or Josh.Zeldis@fcc.gov.

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